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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,	)	No. CR 03-20075-JW
	)	
Plaintiff,	)	<b>[PROPOSED] ORDER REGARDING</b>
	)	<b>LIMITED AMELINE REMAND</b>
v.	)	
	)	
REY ROCKY RAMIREZ-GOMEZ,	)	
	)	
Defendant.	)	
_____	)	

Based on the Stipulation Regarding Limited Ameline Remand which has been filed and submitted contemporaneously with this Order, the Court hereby makes the following findings and enters the following Order:

(1) On July 13, 2004, this Court sentenced the defendant Rey Rocky Ramirez-Gomez to a term of 46 months of imprisonment following which the defendant filed an appeal with the United States Court of Appeals for the Ninth Circuit.

(2) On December 12, 2005, the United States Court of Appeals for the Ninth Circuit issued a memorandum decision in which it remanded this case to this Court pursuant to United States v. Ameline, 409 F.3d 1073 (9<sup>th</sup> Cir. 2005) (en banc) to determine “whether the sentence imposed

1 would have been materially different had the district court known that the Guidelines were  
2 advisory.”

3 (3) On March 10, 2006, this Court issued an Order inviting the parties to “submit briefs to  
4 assist the Court in answering that question.”

5 (4) On March 20, 2006, the United States filed its Position Regarding Limited Remand  
6 Pursuant to United States v. Ameline in this case.

7 (5) On April 20, 2006, the Defendant filed his Position Regarding Ameline Remand in this  
8 case.

9 (6) There has been no further action taken by this Court or the parties in this case since April  
10 20, 2006.


11 (7) The Bureau of Prisons Inmate Locator public website reflects that the defendant  
12 (Register # 10003-111) was released from the United States Bureau of Prisons on May 9, 2007.

13 (8) According to United States Immigration and Customs Enforcement, the defendant was  
14 deported to Mexico via San Ysidro, California on May 10, 2007 and no further enforcement  
15 action has been taken against him since that date.

16  
17 Based on the foregoing, it is hereby ORDERED that had this case been considered by this  
18 Court pursuant to the remand order of the United States Court of Appeals for the Ninth Circuit, it  
19 would not have imposed a materially different sentence than the 46-month sentence previously  
20 imposed notwithstanding the fact that the United States Sentencing Guidelines are no longer  
21 mandatory in their application.

22  
23 It is so ORDERED:

24  
25 Dated: 11/4/09

26  
27  
28  
  
JEREMY FOGEL  
United States District Judge  
Northern District of California